

Legal notice

All effort has been made to ensure the accuracy of this translation, which is based on the original Slovenian text. All translations of this kind may, nevertheless, be subject to a certain degree of linguistic discord. In case of any uncertainties regarding the English translation the questions may be addressed to:

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The original text of this act is written in the Slovenian language; in case of any doubt or misunderstanding, the Slovenian text shall therefore prevail. Original text can be found on the web page http://zakonodaja.gov.si/rpsi/r08/predpis_ZAKO5778.html

ACT**AMENDING THE FINANCIAL CONGLOMERATES ACT (ZFK-A)****Article 1**

Paragraph (1) of Article 1 of the Financial Conglomerates Act (*Uradni list RS* [Official Gazette of the Republic of Slovenia], No. 43/06) shall be amended to read as follows:

(1) The purpose of this Act is to lay down supplementary supervision of regulated entities that are a part of financial conglomerates, subject to the requirements of the Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate (OJ L 35,11.02.03, p. 1; hereinafter referred to as "Directive 2002/87/EC), as last amended by Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ L 331, 15.12.2010, p. 120, hereinafter: Directive 2010/78 EU)."

Article 2

Point 1 of Article 2 shall be amended to read as follows:

"1. 'Bank'

shall mean a legal entity such as a bank or a savings bank that has obtained the Bank of Slovenia's authorisation to perform banking services in the Republic of Slovenia in accordance with the act governing banking or

–shall mean a legal entity whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account and which has obtained an authorisation to perform such services in other Member States or in a third country;

3. Point 3 shall be amended to read as follows:

»3. 'Reinsurance undertaking'

– shall mean the insurance undertaking from the first item of Point 2 of this Article, whose business is to perform solely reinsurance activities or

– shall mean a legal entity from another Member State other than the insurance undertaking referred to in the second indent of point 2 of this Article, whose business is to perform reinsurance activities and has, therefore, obtained an authorisation of the competent authority of this Member State or

– shall mean a legal entity from a third country other than the insurance undertaking referred to in the third indent of point 2 of this Article, which has obtained an authorisation to perform reinsurance business in that third country and which, if it had been established in a Member State, would have fallen within the framework of the definition of the legal entity from the preceding item, and is subject to the rules that are as rigorous as those laid down by the act governing the insurance business:".

Point 4 shall be amended to read as follows:

"4. 'Pension company'

– shall mean a legal entity who has obtained an authorisation from the Insurance Supervisions Agency to perform activities of voluntary supplementary pension insurance in the Republic of Slovenia according to the act governing pension and disability insurance or

– shall mean a legal entity from another Member State whose business is to perform activities of voluntary pension insurance and has, therefore, obtained an authorisation from the competent authority of this Member State or

– shall mean a legal entity from a third country, which, if it had been established in a Member State, would have fallen within the framework of definition of the legal entity from the preceding item, and of which the operation is subject to the rules that are at least as rigorous as those laid down by the act governing pension and disability insurance;".

Point 5 shall be amended to read as follows:

"5. 'Stockbroking company'

—shall mean a legal entity who has obtained an authorisation from the Securities Market Agency to supply and perform securities-related services and transactions in the Republic of Slovenia according to the act governing the financial instruments market or

– shall mean in investment firm from another Member State whose basic activity or business is to provide investment services and transactions to third parties and for which activity it has obtained an authorisation of the competent authority of such other Member State or

– shall mean an investment company from a third country which would, when established in a Member State, fall within the framework of investment firm definition from the preceding item, and which has obtained an authorisation in that third country and whose operation is subject to the rules that are as rigorous as those laid down by the act governing the financial instruments market;".

6. Point 6 shall be amended to read as follows:

"6. 'Asset management company'

– shall mean a legal entity who has obtained an authorisation from the Securities Market Agency to supply services of managing investment funds in the Republic of Slovenia according to the act governing asset management companies;

– shall mean a legal entity from another Member State whose principal activity is the management of investment funds, for which it has obtained an authorisation from another Member State's supervisory authority or

– shall mean a legal entity established in a third country, which, if established in the Republic of Slovenia, would require an authorisation according to the act governing investment funds and asset management companies;

Point 8 shall be amended to read as follows:

"8. 'Financial sector' shall mean the sector which is composed of one or more entities from the banking sector, insurance sector, securities market sector or mixed financial holding companies referred to in Article 7 of this Act, where

a) the banking sector shall be composed of the following:

- banks referred to in Point 1 of this Article and

- financial institutions other than banks whose principal activity is to acquire equity holdings or to supply financial services referred to in points 2 to 12 of Article 10 of the Banking Act (*Uradni list RS*, No. 99/10 – official consolidated text, 52/11 – as amended, 9/11 – ZPlaSS-B, 35/11 and 59/11), or

- companies which provide ancillary services under the act governing banking;

b) the insurance sector shall be composed of the following:

- insurance undertakings from point 2 of this Article;

- reinsurance undertakings from point 3 of this Article;

- insurance holding companies according to the act governing insurance business and

- pension companies referred to in point 4 of this Article;

c) the securities market sector shall be composed of stockbroking companies referred to in point 5 of this Article;

d) for the purpose of identifying financial conglomerates and for the purpose of supplementary supervision, asset management companies shall be considered to be a part of the sector within the financial sector referred to in points 8.a, 8.b or 8.c of this Article, into which they are categorised pursuant to Article 6 of this Act;"

Point 22 shall be amended to read as follows:

"22. EBA shall mean the European Banking Authority established under Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12; hereinafter: Regulation 1093/2010/EU);«.

Point 22 shall be followed by new points 23, 24, 25, 26 and 27 which shall read as follows:

"23. EIOPA shall mean the European Insurance and Occupational Pensions Authority established under Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48; hereinafter: Regulation 1094/2010/EU);

24. ESMA shall mean the European Securities and Markets Authority established under Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84; hereinafter: Regulation 1095/2010/EU);

25. ESA is a common term for European Supervisory Authorities, namely: EBA, EIOPA and ESMA;

26. The Joint Committee shall mean the Joint Committee of European Supervisory Authorities (ESA) established in accordance with Article 54 of the following regulations: Regulation 1093/2010/EU, Regulation 1094/2010/EU and Regulation 1095/2010/EU;

27. ESRB shall mean the European Systemic Risk Board established by Regulation (EU) 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European. Union

macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1).".

Article 3

In paragraph (1) of Article 15, the phrase "the relevant competent authorities" shall be replaced by the phrase "competent authorities".

In paragraph (2), the word "relevant" shall be deleted.

Article 4

Paragraph (4) of Article 17 shall be amended to read as follows:

(4) The coordinator shall notify the competent authorities which have authorised regulated entities in the group, competent authorities of the Member State in which the mixed financial holding company has its head office, and the competent authorities of third countries, provided that the condition of equivalent supervision has been satisfied, as well as the Joint Committee that the group has been identified as a financial conglomerate and appointed a coordinator."

Article 5

Paragraph (2) of Article 19 shall be amended to read as follows:

"(2) When appointing the coordinator, they shall particularly observe the following two criteria:

1. When the financial conglomerate is headed by a regulated entity established in the Republic of Slovenia or in another Member State, the tasks of coordinator shall be performed by the competent authority which authorised this regulated entity in accordance with the sectoral rules;

2. In the absence of a regulated entity at the head of the financial conglomerate, the tasks of coordinator shall be performed by the competent authority appointed subject to additional criteria referred to in Article 20 of this Act."

Article 6

In Article 23, a new paragraph (4) shall be inserted to read as follows:

"(4) The competent authorities of the Republic of Slovenia shall observe the guidelines, standards and other recommendations of the Joint Committee in the performance of their tasks and responsibilities under this Act."

Article 7

In paragraph (2) of Article 26, the word "involved" shall be replaced by the word "competent".

Article 8

Paragraph (4) of Article 28 shall be deleted.

Article 9

In paragraph (3) of Article 30, the word "involved" shall be replaced by the word "competent".

Paragraph (6) shall be deleted.

Article 10

In paragraph (2) of Article 32, point *c* shall be followed by a new point *d* to read as follows:

"d) appropriate arrangements for development and, if necessary, the preparation of recovery and rescue plans. These procedures shall be regularly updated.

Article 11

Paragraph (1) of Article 38 shall be amended to read as follows:

"(1) The coordinator and other relevant competent authorities and when necessary also other competent authorities shall enter into a coordination agreement in order to establish and perform effective control of individual financial conglomerates.

Article 12

Article 45 shall be followed by a new Article 45a, which shall read as follows:

"Article 45a

Cooperation and exchange of information with the Joint Committee

(1) The competent authority referred to in paragraph (1) of Article 45 shall cooperate with the Joint Committee in accordance with Regulations 1093/EU, 1094/EU and 1095/EU.

(2) The competent authorities referred to in paragraph (1) of Article 45 shall communicate to the Joint Committee all information required for effective performance of his duties in accordance with Article 35 of Regulations 1093/2010/EU, 1094/2010/EU and 1095/2010/EU."

Article 13

Paragraph (1) of Article 47 shall be amended to read as follows:

"(1) The competent authorities referred to in paragraph (1) of Article 45 of this Act may also exchange the information referred to in Article 46 of this Act as well as other information as may be needed for the performance of their respective tasks, regarding regulated entities in a financial conglomerate, in line with the provisions laid down in the sectoral rules and this Act with the following authorities: central banks, the European System of Central Banks, the European Central Bank and the European Systemic Risk Board.

Article 14

Paragraph (3) of Article 50 shall be amended to read as follows:

"(3) Notwithstanding the provisions of other Acts, natural or legal persons, regulated or unregulated entities included within the scope of supplementary supervision under this Act shall ensure that there are no impediments preventing the exchange of information which would be relevant for the purposes of supplementary supervision and the exchange of information under this Act and with ESA in accordance with Article 35 of Regulations 1093/2010/EU, 1094/2010/EU and 1095/2010/EU or through the intermediary of the Joint Committee."

Article 15

Paragraph (3) of Article 52 shall be amended to read as follows:

"(3) The competent authority referred to in the preceding paragraph shall consult the other relevant competent authorities during verification. Before taking a decision on equivalent supervision, it shall take into consideration the guidelines set by the Joint Committee in accordance with Articles 16 and 56 of Regulations 1093/2010/EU, 1094/2010/EU and 1095/2010/EU."

A new paragraph (4) shall be inserted to read as follows

"(4) When the competent authority disagrees with the decision of the relevant competent authority referred to in paragraph (2) of this Article, Article 19 of Regulations 1093/2010/EU, 1094/2010/EU or 1095/2010/EU shall apply."

Article 16

Point 5 of paragraph (1) of Article 55 shall be amended to read as follows:

"5. If contrary to paragraph (3) of Article 50 of this Act it impedes the mutual exchange of information that may be relevant for the purpose of supplementary supervision and the exchange of information under this Act and with ESA in accordance with Article 35 of Regulations 1093/2010/EU, 1094/2010/EU and 1095/2010/EU or through the intermediary of the Joint Committee."

FINAL PROVISION

Article 17

This Act shall enter into force on 31 December 2011.

No. 450-02/11-47/9

Ljubljana, 19 October 2011

EPA 2085-V

National Assembly
of the Republic of Slovenia
Ljubo Germič, m.p.
President